

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**BURTON BRAXTON HAGWOOD,**

**Plaintiff,**

**v.**

**2:06 CV 115  
(Maxwell)**

**BOP,**

**Defendant.**

**ORDER**

It will be recalled that on December 4, 2006, *pro se* Plaintiff Burton Braxton Hagwood initiated the above-styled civil action by filing an Application For Temporary Restraining Order/Preliminary Injunction.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with LR PL P 83.02, *et seq.*, and 28 U.S.C. §§ 1915(e) and 1915A.

On May 3, 2007, United States Magistrate Judge Seibert issued a Report And Recommendation wherein he recommended that the Plaintiff's Application For Temporary Restraining Order/Preliminary Injunction be dismissed without prejudice for failure to either pay the \$350.00 filing fee or to file an Application To Proceed Without Prepayment Of Fees. In this regard, it will be recalled that on December 4, 2006, the Clerk of Court sent the Plaintiff a Notice of Deficient Pleading advising him that a failure to either pay the filing fee or to submit an Application To Proceed Without Prepayment Of Fees could result in the dismissal of his case without prejudice.

In his Report And Recommendation, Magistrate Judge Seibert provided the Plaintiff with ten (10) days from the date of service of said Report And

Recommendation in which to file objections thereto and advised the Plaintiff that a failure to timely file objections would result in the waiver of his right to appeal from a judgment of this Court based upon said Report And Recommendation.

The Court's review of the docket in the above-styled action has revealed that no objections to Magistrate Judge Seibert's May 3, 2007, Report And Recommendation have been filed and that this matter is now ripe for review.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the Magistrate Judge's findings to which objection is made. The Court is not, however, required to review, under a *de novo* or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4<sup>th</sup> Cir 1989); United States v. Schronce, 727 F.2d 91, 94 (4<sup>th</sup> Cir. 1984).

Upon consideration of Magistrate Judge Seibert's May 3, 2007, Report And Recommendation, and having received no written objections thereto, it is

**ORDERED** that the Report And Recommendation entered by United States Magistrate Judge James E. Seibert on May 3, 2007 (Docket No. 4), be, and the same is hereby, **ACCEPTED** in whole and the above-styled civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Plaintiff's Application For Temporary Restraining Order/Preliminary Injunction be, and the same is hereby, **DISMISSED without**

**prejudice** for failure to either pay the \$350.00 filing fee or to file an Application To Proceed Without Prepayment Of Fees. It is further

**ORDERED** that the Clerk of Court shall enter judgment for the Defendant. It is further

**ORDERED** that, should the Plaintiff desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of Court is directed to transmit copies of this Order to the *pro se* Plaintiff and to any counsel of record.

**ENTER:** February 12, 2009

**/S/ Robert E. Maxwell**  
United States District Judge